THE HON'BLE SRIJUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.12624 of 1999

Dated 28.03.2007

Between:

Smt.Nasreen W/o Rahamathulla

... **PETITIONER**

And:

The Registrar, Registration and Stamps,
Chittoor and others.

... RESPONDENTS

THE HON'BLE SRIJUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.12624 of 1999

ORDER:

This writ petition is filed seeking a mandamus declaring the action of respondents 1 and 2 in registering the Will dated 02.08.1998 submitted by respondents 3 and 4 without considering the objection raised by the petitioner as arbitrary and illegal and for a consequential direction to them to conduct enquiry and pass orders on the objections filed by the petitioner.

The case of the petitioner is that she is the legally wedded wife of the fourth respondent and the third respondent is her mother-in-law. His father-in-law, by name Subhan Saheb, was the absolute owner of the house property bearing Nos.5-2 to 5-5, 5-3/1, and 5-2/1 to 5-2/7 situated at V.Kota. Subsequent to the marriage, the fourth respondent alleged to have addicted to vices and was ill-treating the petitioner. Therefore, the father-in-law of the petitioner stated to have executed a

Settlement deed dated 28.05.1997 in favour of the petitioner relinquishing his rights on his entire movable and immovable properties. Subsequently, her father-in-law died on 09.09.1998 and thus the petitioner is stated to have acquired whole rights on the entire properties of her father-in-law. While so, the petitioner came to know that respondents 1 and 2 have presented a fabricated Will dated 02.08.1998 alleged to have been executed by her father-in-law for registration. She further alleges that though she issued a legal notice dated 17.04.1999 to respondents 3 to 4, they have presented the Will for registration and pursuant to the same, the second respondent issued a publication on 30.04.1999 inviting objections from the interested persons. Upon which, the petitioner filed objections on 15.06.1999, however, without considering the same, the second respondent is proceeding to register the Will. Hence, this writ petition.

A counter is filed by the second respondent stating that the third respondent filed an application under Section 41(2) of the Indian Registration Act, 1908, and pursuant to the same, action has been initiated and the enquiry is yet to commence. It is further stated that before conducting any enquiry and hearing both sides, the document in question would not be registered and even no order has been passed against the petitioner. Therefore, the writ petition is premature and the same is liable to be dismissed.

In the light of the averments in the counter, this Court is of the view that this writ petition is filed only on mere apprehension, and there are no merits in this writ petition.

Accordingly, the writ petition is dismissed. However, the respondents are directed to hold an enquiry as per the relevant rules and pass appropriate orders, duly affording opportunity to all the parties concerned. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order, if not

already done. There shall be no order as to costs.

28.03.2007

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